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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,432	01/10/2006	Kai Paintner	2003P01084WOUS	8868
7590	10/04/2006		EXAMINER	
Russell W Warnock BSH Home Appliances Corporation 100 Bosch Boulevard New Bern, NC 28562			GRAVINI, STEPHEN MICHAEL	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/564,432

Applicant(s)

PAINTNER, KAI

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on 10 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060110</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Preliminary matter***

Examiner's immediate supervisor has instructed examination such that claims must not rely on imported description/specification in an internal Office electronic mail messages dated August 8, 2006 and August 2, 2006 to the examiner. Claims must contain all specification discussion as clarified by examiner's supervisor. Furthermore, language such as "for operating," "for extracting," or "for heating" is to be interpreted as desired result and ordered examination such that the invention should be claimed as means or step plus function format, based on an internal Office electronic mail message dated July 10, 2006. The rejections to follow are based on mandated policies by examiner's immediate supervisor, with contact information at the end of this action.

### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Examination is based on applicant's intention to invoke the sixth paragraph of 35 USC 112 since the claimed "means for extracting" and "means for heating" <sup>are</sup> ~~is~~ to be interpreted under current Office practice for invoking that statute because the "means for" language is not modified by functional language and not modified by sufficient structure, material or acts for achieving the specified function.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Burress (US 5,724,750). Burress is considered to disclose the claimed invention comprising:

guiding air via a conduit system connected to the treatment chamber such that air is initially guided from the treatment chamber to the conduit system and is subsequently recirculated from the conduit system to the treatment chamber at column 2 lines 22-38 with (a) the air that has been guided from the treatment chamber to the conduit system initially being guided relative to a Peltier element having means for extracting heat from air passed therethrough, whereupon the air is cooled by its passage relative to the means for extracting means and, thus, the moisture absorption capacity of the air is reduced at column 1 lines 40-57, (b) the air having passed relative to the means for extracting heat subsequently being guided relative to a means for heating the air such that the air is heated at column 3 lines 11-26, and (c) the air thereafter being recirculated after such heating by the means for heating the air back to the treatment chamber at column 3 line 61 through column 4 line 65. Burress is also considered to disclose a fan **15** wherein the disclosed vacuum pump can be broadly and reasonably construed to anticipate the claimed fan because both convey air, air cooled at column 1 line 52 or heated at column 1 line 58-64 by means of the Peltier element.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burress in view of Menk et al. (US 3,218,730). Burress is considered to disclose the claimed invention, as rejected above, except for the claimed condenser air passage. Menk, another appliance operating method, is considered to disclose a condenser air passage at column 10 lines 2-72. It would have been obvious to one skilled in the art to combine the teachings of Burress with the condenser air passage, considered disclosed in Menk for the purpose of removing moisture at a greater rate because of the reduced vapor level.

***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent

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and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 7-12 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 39-53 of copending Application No. 10/539,550. Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to one skilled in the art to not claim the current application feature of regeneration for greater patent protection since the copending application would perform the invention as claimed regardless of a regeneration step.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 571 272

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4875. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on 571 272 4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMG  
September 23, 2006

